

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KIMBERLY GENEREUX,
Plaintiff,

v.

C.A. NO. 05-CV-10879-JLT

COLUMBIA SUSSEX CORPORATION,
STARWOOD HOTELS & RESORTS
WORLDWIDE, INC., and WESTIN
HOTEL MANAGEMENT, L.P.
Defendants.

**DEFENDANTS' ANSWER TO PLAINTIFF'S
SECOND AMENDED COMPLAINT; JURY CLAIM**

Defendants Columbia Sussex Corporation, Starwood Hotels & Resorts
Worldwide, Inc., and Westin Hotel Management, L.P. (hereafter "the defendants")
hereby answer each numbered paragraph and count of the Plaintiff's Second Amended
Complaint as follows:

1. The defendants admit that the plaintiff is a resident of the Commonwealth of Massachusetts; the defendants do not have sufficient information or knowledge to admit or deny the remaining allegations of this paragraph.
2. Defendant Columbia Sussex Corporation (hereafter "Columbia") admits that it is a duly organized corporation pursuant to the laws of the Commonwealth of Kentucky, and has a principle place of business at 740 Centre View Boulevard, Crestview Hills, Kentucky. The remaining allegations of this paragraph constitute legal conclusions to which no response is required. To the extent that a response is deemed necessary to these allegations, they are denied.
3. Defendant Starwood Hotels & Resorts Worldwide, Inc. (hereafter "Starwood") admits that it is a corporation organized under the laws of the State of Maryland with a principle place of business as alleged. The remaining allegations of this paragraph constitute legal conclusions to which no response is required by this defendant. To the extent that a response is deemed necessary to these allegations, they are denied.

4. Defendant Westin Hotel Management, L.P. (hereafter "Westin") admits that it is a limited partnership, and that Defendant Starwood is the general partner of this partnership; this defendant further admits that it is duly organized under the laws of the State of Delaware, and has a principle place of business as alleged. With respect to the remaining allegations, Defendant Westin says that on the date alleged, Westin License Company and Westin Management Company East sold all their assets, subject to any present or future liability, to Defendant Westin. The other entities named are unknown to Defendant Westin, and may be misnamed.

JURISDICTION AND VENUE

5. The allegations of this paragraph constitute legal conclusions to which no response is required by the defendants. To the extent a response is deemed necessary, these allegations are denied.
6. The allegations of this paragraph constitute legal conclusions to which no response is required by the defendants. To the extent a response is deemed necessary, these allegations are denied.

FACTS COMMON TO ALL COUNTS

7. The defendants admit the allegations of this paragraph insofar as it is alleged that:
 - a: Defendant Columbia owns certain hotels throughout the United States;
 - b: Defendant Starwood owns certain hotels throughout the United States;
 - c: Defendant Westin Hotel Management holds licensing rights for certain hotels throughout the United States and in certain foreign countries.

The remaining allegations of this paragraph are denied.

8. Defendants Columbia and Starwood deny the allegations of this paragraph; Defendant Westin admits that it has license agreements with certain hotels within the Commonwealth of Massachusetts. The remaining allegations are denied.
9. The defendants deny the allegations of this paragraph.

10. The defendants admit as follows:

a: Defendant Westin, through its predecessor, had a franchise agreement with the Westin Casuarina Hotel.

The defendants deny the remaining allegations of this paragraph.

11. These defendants do not have sufficient information or knowledge to admit or deny the allegations of this paragraph.
12. These defendants do not have sufficient information or knowledge to admit or deny the allegations of this paragraph.
13. These defendants deny that the premise and the premises' lavatory facilities were held open for use of the general public. These defendants do not have sufficient information or knowledge to admit or deny the remaining allegations of this paragraph.
14. These defendants do not have sufficient information or knowledge to admit or deny the allegations of this paragraph.
15. These defendants do not have sufficient information or knowledge to admit or deny the allegations of this paragraph.
16. The defendants deny the allegations of this paragraph.
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- 59. These defendants do not have sufficient information or knowledge to admit or deny the allegations of this paragraph.
- 60. These defendants do not have sufficient information or knowledge to admit or deny the allegations of this paragraph.

COUNT I

- 61. The defendants incorporate herein by reference their answers to paragraphs 1-60 above as if each were set forth herein.
- 62. The defendants deny the allegations of this paragraph.
- 63. The defendants deny the allegations of this paragraph.
- 64. The defendants deny the allegations of this paragraph.

AFFIRMATIVE DEFENSES

And further answering, the defendants say:


- A. The plaintiff's cause of action is barred by the applicable statute of limitations and/or statute of repose.
- B. The injuries and damages allegedly suffered by the plaintiff were caused in whole or in part by the plaintiff's own negligence, which was greater than any negligence of the defendants.
- C. Any award of damages to the plaintiff must be reduced proportionately in relation to the amount of negligence attributable to the plaintiff.

- D. The injuries and damages allegedly suffered by the plaintiff were caused by the actions of a third party over whom these defendants had no control, and for whose conduct these defendants had no responsibility.
- E. The injuries allegedly suffered by the plaintiff were caused by the supervening, unforeseeable actions of a third party.
- F. The plaintiff has failed to mitigate her damages.
- G. The plaintiff's complaint is barred by reason of lack of subject matter and personal jurisdiction over the defendants.
- H. The plaintiff's complaint fails to state a claim upon which relief may be granted.

JURY DEMAND

The defendants demand a trial by jury.

The defendants,
by their attorneys



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